



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/170268

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 19, 2015, under Wis. Admin. Code, §HA 3.03, to review a decision by Brown County Human Services to recover FoodShare benefits (FS), a hearing was held on December 16, 2015, by telephone.

The issue for determination is whether the county correctly determined an FS overpayment.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Brown County Human Services  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner receives FS as a one-person household. In February, 2014 petitioner received \$16 FS based upon his receiving \$1,247 monthly social security. In February, the state computer system automatically updated that petitioner's social security was ending March 1, and the system removed the income from petitioner's FS budget. Effective March 1, 2015 petitioner's FS increased to the maximum monthly allotment of \$194.

3. In March and for the next three months petitioner received his social security payments manually from the local office. In June the system again showed the payments, and effective July 1, 2015 petitioner's FS were again reduced to \$16 based upon the monthly social security income.
4. By a notice dated October 2, 2015, the county informed petitioner that he was overpaid \$712 in FS from March 1 through June 30, 2015 due to agency error of removing his social security income from his FS budgets, claim no. [REDACTED]. Had the income not been removed he would have received \$16 monthly FS instead of \$194.

### **DISCUSSION**

The Department is required to recover all FS overpayments. An overpayment occurs when an FS household receives more FS than it is entitled to receive. 7 C.F.R. §273.18(c). The federal FS regulations provide that the agency shall establish a claim against an FS household that was overpaid, even if the overpayment was caused by agency error. 7 C.F.R. §273.18(b)(3).

To determine an overpayment, the agency must determine the correct amount of FS that the household should have received and subtract the amount that the household actually received. 7 C.F.R. §273.18(c)(1)(ii).

Petitioner was overpaid FS because the agency erroneously removed his social security income from his FS budget for four months. The rules require the agency to recover the overpayment even when it is caused by agency error, and thus I must conclude that the overpayment claim was correct.

### **CONCLUSIONS OF LAW**

Petitioner was overpaid \$712 in FS for four months in 2015 because the agency erroneously removed his monthly social security income and issued petitioner maximum FS based upon zero income.

**THEREFORE, it is**

**ORDERED**

That the petition for review is hereby dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 18th day of December, 2015

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\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on December 18, 2015.

Brown County Human Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability